

Appl. No. 09/297,591
Atty. Docket No. JA171
Amdt. dated 03/28/2005
Reply to Office Action of 12/28/2004
Customer No. 27752

REMARKS

Claims 1-13 are pending in this application and all presently stand rejected. By the amendments presented herein, Applicant amended Claim , whereupon Claims 1-13 remain to be examined. No fee is believed to be due as a result of these amendments. No new matter is being added.

The Specification has been amended to correct for a typographical error. The paragraph beginning at page 7, lines 3-9, was corrected with an amended paragraph in which the term octylacrylamine was amended with the correctly spelled term octylacrylamide.

Claim 1 has been amended to more distinctly claim amphoteric polymers of the present invention. Basis lies, as least, at page 5, lines 7 - 26, of the Application as originally filed.

By this amendment, the objection to Claim 1, as the bonds in formula for polymer (1) appeared to be offset in that the bonds on CH2 would exceed the valency of the carbon and that there are no bonds on N which would render the nitrogen quaternized and the bonds to R3, R4, r5, and R5 appear to be offset in the formula for polymer (4), has been addressed.

Therefore, reconsideration and withdrawal of the claim rejection under 35 U.S.C. 112, second paragraph is requested.

35 U.S.C. § 103

Under 35 U.S.C. §103(a), Claims 1-13 have been rejected as being unpatentable over U.S. Pat. No. 5,254,333, issued to Kajino et al. [hereinafter "Kajino"]. Further, Claims 1-13 are rejected under 35 U.S.C. §103(a), as being unpatentable over Kajino in view of Grollier et al (US Patent 5,089,252) or Boerwinkle et al (US Patent 3,836,537) for the reasons of record set forth in the prior Office Action and the further reasons set out in the present Office Action. Finally, Claims 1-13 are rejected under 35 U.S.C. §103(a), as being unpatentable over Grollier et al (US Patent 5,089,252) in view of Grollier et al (US Patent 4,796,646). Applicant respectfully traverses these rejections as applied to Claims 1-13 in view of the arguments presented herein.

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Kajino (U.S. 5,254,333)

To establish a *prima facie* case of obviousness, under 35 U.S.C. §103, three elements must be met: (a) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; and (b) there must be a reasonable expectation of success; and (c) the prior art reference(s) must teach or suggest all the claim limitations. *In re Fine*, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Merck & Co., Inc.*, 231 USPQ 375 (Fed. Cir. 1986); *In re Royka*, 180 USPQ 580 (CCPA 1974). See also, MPEP 2142. Applicant submits that the references cited by Examiner fail to establish a *prima facie* case of obviousness.

Specifically, Kajino fails to teach or suggest all the claim limitations of the present invention, as now amended. Kajino fails to teach or suggest an N-alkyl substituted acrylamide or methacrylamide as a unit of the amphoteric polymer, as now found in amended Claim 1 of the present invention. Therefore, Kajino does not teach or suggest compositions having all of the claim limitations of the present invention, as now defined and amended in the present invention and therefore fail to establish a *prima facie* case of obviousness.

Kajino in view of Grollier et al (US Patent 5,089,252) or Boerwinkle et al (US Patent 3,836,537)

As stated above, to establish a *prima facie* case of obviousness, under 35 U.S.C. §103, one of the three elements which must be met is that the prior art reference(s) must teach or suggest all the claim limitations. However, Kajino in view of Grollier et al (US 5,089,252) or Boerwinkle et al (US 3,836,537) each fail to teach or suggest an N-alkyl substituted acrylamide or methacrylamide as a unit of the amphoteric polymer, as now found in amended Claim 1 of the present invention. Therefore, Kajino in view of Grollier et al (US 5,089,252) or Boerwinkle et al (US Patent 3,836,537) do not teach or suggest compositions having all of the claim limitations of the present invention, as now defined and amended in the present invention and therefore fail to establish a *prima facie* case of obviousness.

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Grollier et al (US Patent 5,089,252) in view of Grollier et al (US Patent 4,796,646)

Claims 1-13 are rejected under 35 U.S.C. §103(a), as being unpatentable over Grollier et al (US Patent 5,089,252) in view of Grollier et al (US Patent 4,796,646).

However, Grollier et al (US 5,089,252) in view of Grollier et al (US Patent 4,796,646) each fail to teach or suggest an N-alkyl substituted acrylamide or methacrylamide as a unit of the amphoteric polymer, as now found in amended Claim 1 of the present invention. Therefore, Grollier et al (US 5,089,252) in view of Grollier et al (US Patent 4,796,646) do not teach or suggest compositions having all of the claim limitations of the present invention, as now defined and amended in the present invention and therefore fail to establish a *prima facie* case of obviousness.

Conclusion

Therefore, Applicants request that the rejection of claims 1-13 under 35 U.S.C. 103(a) over Kajino (U.S. 5,254,333); over Kajino in view of Grollier et al (US Patent 5,089,252) or Boerwinkle et al (US Patent 3,836,537); and over Grollier et al (US Patent 5,089,252) in view of Grollier et al (US Patent 4,796,646) be withdrawn in that the references do not specifically disclose the specified amphoteric polymer claimed.

Applicant has made an earnest effort to place their application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, Applicant respectfully request reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1 to 13.

Respectfully submitted,

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